

REMARKS

The Official Action of January 8, 2008 has been carefully considered. The amendments and remarks herein are considered to be responsive thereto. The claims remaining in the case are 1-28, 32-43, 45, 47, 49, 50, 52, and 53. Claims 29-31, 44, 46, 48, 51, 54 and 55 have been canceled without prejudice to refile.

The specification is objected to because Scheme I is missing part of a structure on the right side of the page. By this amendment a revised Scheme I with all the structures has been added. No new matter has been added as the complete structures can be seen in US2006/0293303.

The specification is further objected to because the compound name for Example 5 refers to a "...pyrimidin-4-yl" group but the structural formula shows a "pyridinyl-4-yl" group. Page 30 has been amended to insert the correct structure in place of the incorrect structure. No new matter has been added as the compound of Example 5 is found in Claim 27.

Claims 28-55 are rejected under 35 USC section 112, first paragraph, for lacking enablement for a method comprising a second anticoccidial agent; or a method for controlling coccidiosis with **prophylactically** effective amount of the compound of formula I; or a method for controlling malaria, African trypanosomiasis, Chagas disease, or toxoplasmosis with **prophylactically** effective amount of formula I. Claims 29-31 directed to a method comprising a second anticoccidial agent have been canceled, and the phrase "or a prophylactically effective amount" has been deleted from claims 45, 47, 49, 50, 52 and 53 to address of the Examiner's concerns.

Regarding the method claims for malaria, African trypanosomiasis, Chagas disease or toxoplasmosis, the Examiner states that there is no relation to the data provided for anticoccidial activity and the treatment of these disorders. It is known that coccidiosis is caused by Apicomplexan parasites just as are malaria, African trypanosomiasis, Chagas disease and toxoplasmosis. Thus, one of ordinary skill in the art upon reviewing the invention disclosure could reasonably expect a correlation between the claimed compounds anticoccidial activity and their activity against malaria, African trypanosomiasis, Chagas disease and toxoplasmosis.

Claims 32-44 are further rejected because the composition claims are limited by a particular use. These claims have been amended to delete all reference to a particular use.

Claims 1-26 and 28-55 are rejected under 35 USC 112, second paragraph, for failing to distinctly claim the subject matter of the invention. Specifically, the Examiner states that the comma appearing after the word "N-oxide" in Claim 1 is confusing, and Claim 21 is broader than Claim 1 from which it depends. By this amendment Claim 1 has been amended to delete the comma appearing after "N-oxide" and Claim 21 amended to be independent and to claim specific heteroaryls to address the Examiner's concerns.

Claims 21 and 52-55 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-44 of copending Application No. 10/548,154. Specifically, the Examiner states that the instant claims substantially overlap the reference claims. Applicant's respectfully traverse. A careful look at 10/548,154 will reveal that a pyrimidinyl group is always present in the structure. By contrast, none of the compounds in amended claim 21 have a pyrimidinyl substituent off the imidazolyl group. Thus, there is no overlap.

In light of the amendments and remarks herein Applicants believe the claims are in condition for allowance. The Examiner is respectfully requested to contact the undersigned at the number below if this would expedite the allowance.

Respectfully submitted,

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